



Jason A. Zangara, MPH, MA, FF/NREMT, AIFireE

573 Sidorske Avenue
Manville, NJ 08835
(908) 672-0626
firefighterjazzyj@yahoo.com

August 20, 2023

VIA ELECTRONIC DELIVERY “ecfhelp@njd.uscourts.gov”

Hon. Robert Kirsch

Clarkson S. Fisher U.S. Court House
402 East State Street
Room 2020
Trenton, NJ 08608

Re: Zangara v. National Board of Medical Examiners
Civil No. 3:22-1559 (RK) (JBD)

Dear Judge Kirsch,

In response to “Defendants” & their attorney’s letter to this court accusing me of making “accusations” against them of attempting to deceive this court, their letter is self-explanatory:

- The August 18th letter (dk#58) comes from Washington D.C. Mr. Mandelsberg does not have an office in Washington DC, nor is he admitted to practice there (See his bio attached as Exhibit “A”)
- Robert Burgoyne is not admitted to practice before this court and does not have an office in New York (or New Jersey) (See his bio as Exhibit “B”)
- Mr. Mandelsberg does not have an office in Washington DC, which is why the Direct number and fax number are missing from under his name and email (See Exhibit “C”)
- Mr. Burgoyne is in Washington DC and has already appeared in this matter so his letterhead (with his direct line and fax listed under the email) is already filed (See Exhibit “D”)

- Mr. Mandelsberg is in New York and is admitted to practice before this court so his letterhead (with his direct line and fax number listed under the email) is also already on file (See Exhibit "E")

It seems pretty obvious that Mr. Mandelsberg didn't write the August 18th letter (dk#58) and more than likely that Mr. Burgoyne wrote the letter and "/s/" Mr. Mandelsberg's name. As an attorney who is (1) not admitted to practice in this state or before this court (2) has not filed an appearance (3) and has not moved the court to proceed "pro hac vice" I would think there would be some professional & ethical issues, even if this "ghostwriting" is allowed by the court.

It also seems clear "who" is attempting to deceive "who" in this litigation and "who's" allegations are correct.

Very truly yours,



Jason A. Zangara, Pro Se
Attorney for Plaintiff

cc: **Perkins Coie via electronic filing**

1155 Avenue of the Americas
22nd Floor
New York, New York 10036-2711
Attorneys for Defendants

amandelsberg@perkinscoie.com,
docketnyc@perkinscoie.com,
MichelleRose@perkinscoie.com,
nvargas@perkinscoie.com

Exhibit A

Professional Biography



ADAM R. MANDELSBERG | PARTNER

NEW YORK

1155 Avenue of the Americas, 22nd Floor

New York, NY 10036-2711

+1.212.261.6867

AMandelsberg@perkinscoie.com

Adam Mandelsberg prosecutes and defends high-stakes litigation on behalf of public companies, financial institutions, sports leagues and player agents, and individuals in federal and state courts nationwide. His experience includes the successful defense of a wide range of product manufacturers accused of fraud and other business torts, including those in the food and beverage, dietary supplement, and pet product industries. Adam also litigates on behalf of the nation's leading service providers, including pioneering technology platforms, colleges and universities, and testing companies.

Adam represents businesses in a wide range of commercial disputes, including breaches of supply and license agreements, disputes related to corporate mergers and acquisitions, and various business torts. He also advises directors and shareholders on cutting-edge issues of corporate law, including alleged breaches of fiduciary duty and petitions for director removal and corporate dissolution.

Illustrative of his creativity and commitment to resolving bet-the-company disputes efficiently and to his clients' satisfaction, Adam successfully defended a global financial institution accused of fraud in connection with a rogue trader's scheme to disguise hundreds of millions of dollars in losses. He also successfully represented a London-based interdealer broker in a lawsuit alleging racketeering and unfair competition against a competitor in connection with its worldwide raid of the firm's profit centers. Adam also secured the dismissal of investors' claims in a decade-long securities-related class action lawsuit on behalf of a leading pharmaceutical company and resolved a securities-related class action lawsuit on behalf of a former executive of a leading cannabis manufacturer.

In addition, Adam has represented a wide range of pro bono clients, including a New Yorker who claimed that law enforcement agents engaged in unlawful and excessive force in the course of his arrest at his own home, a Texas death row prisoner seeking to overturn his conviction and sentence in federal court, teenage children seeking review of a New York Family Court's finding that their parent's abuse of alcohol constituted neglect, public housing residents seeking much-needed repairs to their apartments, and Central American migrants challenging adverse credible fear determinations and seeking recompense for their unlawful separation from minor children by U.S. agents.

Adam clerked for the Hon. Jane R. Roth of the U.S. Court of Appeals for the Third Circuit. While in law school, Adam was an associate editor of the *Journal of Transnational Law* and interned for the Office of the U.S. Solicitor General (DOJ), where he helped prepare the solicitor general for appellate court arguments concerning the constitutionality of the Affordable Care Act (ACA). He also served as an extern to the Hon. Robert D. Sack of the U.S. Court of Appeals for the Second Circuit and as an intern to the Hon. J. Paul Oetken of the U.S. District Court for the Southern District of New York.

- Recognized as a "40 Under 40" by *Crain's New York Business*, 2021
- American Bar Foundation, Fellow

RELATED EMPLOYMENT

- Paul, Weiss, Rifkind, Wharton & Garrison LLP, New York, NY, Litigation Associate, 2015 – 2018
- Schulte Roth & Zabel LLP, New York, NY, Litigation Associate, 2013 – 2014

CLERKSHIPS

- Hon. Jane R. Roth, U.S. Court of Appeals for the Third Circuit, 2014 - 2015

NEWS

08.17.2023

Best Lawyers® 2024 Recognizes 388 Perkins Coie Lawyers

Press Releases

Perkins Coie is proud to announce that 388 of its lawyers have been recognized by *Best Lawyers® 2024*. A total of 275 attorneys were selected by their peers for inclusion in the 2024 edition of *The Best Lawyers in America®* and 113 attorneys were selected for inclusion in the 2024 edition of *Best Lawyers: Ones to Watch*.

01.25.2022

Perkins Coie Attorneys Mentioned in Law360—Annie's Beats 'Slack Fill' Suit Over Bunny Fruit Snacks

General News

Law360

Adam Ross Mandelsberg, and Carrie Akinaka were mentioned in "Annie's Beats 'Slack Fill' Suit Over Bunny Fruit Snacks," an article in *Law360*, regarding their representation of Annie's Inc.

11.10.2021

Perkins Coie Announces 2022 Partner Class

Press Releases

Perkins Coie is pleased to announce that 28 counsel and senior counsel have been promoted to partner effective January 1, 2022.

01.08.2020

Perkins Coie Announces 2020 Counsel and Senior Attorney Promotions

Press Releases

Perkins Coie is pleased to announce that 36 attorneys have been promoted to the firm's counsel position, effective January 1, 2020.

06.12.2019

Perkins Coie Mentioned in Law.com - Loeb Ordered to Comply With Subpoena, But Need Not Foot Entire Bill, Judge Rules

General News

Law.com

Attorneys Keith Miller, Adam Mandelsberg and Gary Eisenberg were mentioned in the *Law.com* article "Loeb Ordered to Comply With Subpoena, But Need Not Foot Entire Bill, Judge Rules", regarding a ruling in their favor in an important discovery dispute.

PUBLICATIONS

04.05.2019

An Arbitration Agreement as a Contract to Constrain the Power of Federal Courts: The Impact of 'Henry Schein'

Articles

New York Law Journal

When the 68th Congress in 1925 enacted the U.S. Arbitration Act (more commonly known as the Federal Arbitration Act or FAA), it was addressing directly a prevailing hostility to arbitration and laying the foundation for arbitration to become a fixture as an alternative to litigation for commercial disputes.

08.24.2016

Second Circuit Review: The Rarity of En Banc Review in the Second Circuit

Articles

New York Law Journal

AREAS OF FOCUS

PRACTICES

- Class Action Defense
- Higher Education
- Consumer Products & Services Litigation

INDUSTRIES

- Blockchain, Digital Assets & Custody
- Food & Beverage
- Digital Media & Entertainment, Gaming & Sports
- Sports
- Educational Institutions & Services
- Retail & Consumer Products

BAR AND COURT ADMISSIONS

- New York
- New Jersey
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the District of New Jersey

EDUCATION

- Columbia Law School, J.D., James Kent Scholar, Harlan Fiske Stone Scholar, 2013, Assistant Executive Editor, *Journal of Transnational Law*
- University of Pennsylvania, B.A., *magna cum laude*, 2010, Phi Beta Kappa

LANGUAGES

- Spanish

Exhibit B

Professional Biography



ROBERT A. BURGOYNE | PARTNER

WASHINGTON, D.C.
700 13th Street, NW, Suite 800
Washington, DC 20005-3960
+1.202.654.1744
RBurgoyne@perkinscoie.com

Commercial litigator Robert Burgoyne leads complex civil litigation in federal and state courts across the country, at the trial and appellate levels. His range of experience includes disputes involving fuel supply agreements, bank loans, project financing and other complex contracts; TCPA claims; antitrust and unfair practice claims; discrimination lawsuits; Administrative Procedures Act challenges to federal regulations; disputes relating to accreditation, NCAA compliance and other higher-education matters; and employment-related disputes. Bob has also served as longtime counsel to several nonprofit associations and standardized testing organizations, for whom he has litigated copyright infringement cases across the United States and overseas, and numerous cases involving claims under the Americans with Disabilities Act (ADA) and state discrimination laws.

In addition to handling litigation, Bob regularly assists clients in the areas of regulatory compliance, employment matters, contract negotiations and drafting, and the development of sound organizational policies. Bob has participated in rulemaking proceedings before federal agencies, and he has represented clients who are the subject of federal and state agency investigations.

Bob has written and spoken frequently about ADA-related issues, standardized testing, higher education and statutory compliance issues, including authoring several articles in *The Bar Examiner*, published by the National Conference of Bar Examiners. He has been recognized in *Best Lawyers in America* and *Chambers USA* in the area of Commercial Litigation, and he has been described in *Chambers* as being "prized by clients for his straightforward style and excellent problem-solving abilities."

PROFESSIONAL RECOGNITION

- Listed in *Best Lawyers in America*: Commercial Litigation, 2021 – 2023
- Ranked by *Chambers USA* as a Leading Individual, Washington, D.C.: Commercial Litigation, 2009 – 2013
- Fellow of the invitation-only *Litigation Counsel of America*, 2015 – 2019
- Listed as a Top Rated Lawyer by *LexisNexis Martindale-Hubbell*, 2012 – 2013

COMMUNITY INVOLVEMENT

- *Wreaths Across America*, Arlington National Cemetery, Volunteer Truck Chief, 2016 – 2019
- Wakefield School, The Plains, VA, Board Member, 2002 – 2010
- Community Association, Board Member, 2008 – 2014, 2021 – present

RELATED EMPLOYMENT

- Norton Rose Fulbright US LLP (previously Fulbright & Jaworski LLP), Washington, D.C., 1982 — 2018

EXPERIENCE

ANTITRUST CLASS ACTION*

Represented an association in a nationwide antitrust class action lawsuit involving graduate medical education; the case was dismissed as to all defendants and the dismissal was affirmed on appeal.

COPYRIGHT INFRINGEMENT TRIAL VERDICT FOR STANDARDIZED TESTING COMPANY*

Represented a standardized testing organization in a copyright infringement lawsuit against a test preparation company; the organization prevailed following trial and was awarded more than \$10 million in damages plus attorneys' fees and costs.

TCPA CLASS ACTION

Defeated class certification and obtained summary judgment on plaintiff's individual claims in a case in which plaintiff was seeking over \$400 million in damages under the Telephone Consumer Protect Act based upon its receipt of alleged unsolicited fax advertisements; denial of class certification upheld on appeal.

IP LAWSUIT IN BEIJING*

Represented a U.S. company as a plaintiff in one of the first intellectual property lawsuits in China after China joined the World Trade Organization; the case was decided in favor of the company and its co-plaintiff in both the lower court and on appeal to the Beijing High Court.

DEFENSE OF PROJECT FINANCE LENDERS SUED FOR NOT DISBURSING LOANS*

Represented two multilateral lending institutions in a lawsuit involving a failed road concession in South America; case settled with no payments by the defendants.

TRIAL OF MINING COMPANY'S MULTIMILLION DOLLAR CONTRACT DISPUTE*

Represented a mining venture in litigation with two utilities that attempted to get out of a long-term (25-year) lignite mining contract and to recover substantial monetary damages; the venture obtained partial summary judgment and prevailed at trial on remaining issues, following which the case settled.

DISTRESSED DEBT LITIGATION*

Represented a multilateral lending institution in a lawsuit involving the sale of distressed debt.

LITIGATION AGAINST LLC MEMBER COMPANIES UNDER RESERVE CAPITAL CALL SECURING \$800 MILLION IN BANK LOANS*

Represented two member companies of an international telecommunications venture, in suit brought on behalf of a consortium of banks that had loaned \$800 million to the venture; resolved to the satisfaction of the member companies.

TRADE SECRETS LAWSUIT*

Represented a company in a noncompete and misappropriation of trade secrets lawsuit against a former employee.

SUPPLY CONTRACT LITIGATION FOR COAL PRODUCER*

Represented a large coal producer in multiple cases involving long-term coal supply contracts and significant dollar amounts; in all the cases, the producer prevailed.

DEFENDED ADA "PATTERN AND PRACTICE" DISCRIMINATION LAWSUIT*

Represented an organization in a "pattern and practice" discrimination lawsuit brought by the United States Department of Justice under the Americans with Disabilities Act (ADA); the case was favorably resolved by way of a settlement that included dismissal of the lawsuit.

LAW SCHOOL ACCREDITATION LITIGATION*

Defended an association in two cases brought by a law school that was denied accreditation; the school asserted antitrust and state law claims; summary judgment was entered for the association and affirmed on appeal.

UNIVERSITY RELATED LITIGATION*

Representation of universities in lawsuits involving, among other issues:

- NCAA eligibility
- Insurance coverage
- Faculty disputes
- ADA compliance

ADA LITIGATION AND COMPLIANCE INVESTIGATIONS

- Represented state licensing boards in connection with investigations by the United States Department of Justice.
- Represented nonprofit testing entities in connection with dozens of ADA lawsuits, ADA-related investigations by the United States Department of Justice and ADA rulemakings.

AMICUS BRIEFS IN THE U.S. SUPREME COURT, FEDERAL COURTS OF APPEALS AND STATE SUPREME COURTS*

- Represented various higher education and healthcare organizations in amicus briefs filed in the United States Supreme Court involving diversity as an admissions factor.
- Represented several universities in submitting an amicus brief in a federal appellate court on ADA issues of first impression.
- Represented nonprofit associations in submitting amicus briefs in cases of importance to their members.

*Prior firm experience

NEWS

08.17.2023

Best Lawyers® 2024 Recognizes 388 Perkins Coie Lawyers

Press Releases

Perkins Coie is proud to announce that 388 of its lawyers have been recognized by *Best Lawyers® 2024*. A total of 275 attorneys were selected by their peers for inclusion in the 2024 edition of *The Best Lawyers in America®* and 113 attorneys were selected for inclusion in the 2024 edition of *Best Lawyers: Ones to Watch*.

08.18.2022

Best Lawyers® 2023 Recognizes 403 Perkins Coie Attorneys

Press Releases

Perkins Coie is proud to announce that 403 of its attorneys have been recognized by *Best Lawyers® 2023*. A total of 279 attorneys were selected by their peers for inclusion in the 2023 edition of *The Best Lawyers in America®* and 124 attorneys were selected for inclusion in the 2023 edition of *Best Lawyers: Ones to Watch*.

08.26.2021

Best Lawyers® 2022 Recognizes 367 Perkins Coie Attorneys

Press Releases

Perkins Coie is proud to announce that 367 of its attorneys were recognized by the 2022 *Best Lawyers®*. A total of 278 attorneys were selected by their peers for inclusion in the 2022 edition of *The Best Lawyers in America®* and 89 attorneys were selected for inclusion in the 2022 edition of *Best Lawyers: Ones to Watch*.

08.20.2020

Best Lawyers® 2021 Recognizes 358 Perkins Coie Attorneys

Press Releases

Perkins Coie is proud to announce that 358 of its attorneys were recognized by *Best Lawyers® 2021*. A total of 290 attorneys were selected by their peers for inclusion in the 2021 edition of *The Best Lawyers in America®* and 68 attorneys were selected for inclusion in the inaugural edition of *Best Lawyers: Ones to Watch*.

02.07.2018

Perkins Coie Adds Experienced Litigator in Washington, D.C.

Press Releases

Perkins Coie is pleased to announce that Robert A. Burgoyne has joined the firm's Washington, D.C. office as a partner in the Commercial Litigation practice.

PUBLICATIONS

01.26.2022

Recent DOJ Settlements Show Step Up in Web Accessibility Enforcement by Biden Administration

Updates

The U.S. Department of Justice recently entered into settlement agreements with Hy-Vee and Rite Aid in response to the DOJ's concern that the companies' vaccine registration websites were not accessible to individuals with vision impairments and other disabilities.

Articles

The Bar Examiner

03.2017

What Everyone Should Know About the Legal Landscape Relating to Testing

Articles

Association of Test Publishers Pocket Handbook

06.2015

State-Action Antitrust Immunity in the Wake of North Carolina State Board of Dental Examiners v. Federal Trade Commission: What Does It Mean For State Bars And Bar Examiners?

Articles

The Bar Examiner

2010

Navigating a Complex Landscape to Foster Greater Faculty and Student Diversity in Higher Education

Articles

American Association for the Advancement of Science

08.2007

The Status of Eleventh Amendment Immunity and the Rooker- Feldman Doctrine as Defenses to Claims Asserted Against Bar Examiners Under the ADA

Articles

The Bar Examiner

AREAS OF FOCUS

PRACTICES

- Litigation
- Business Litigation

INDUSTRIES

- Educational Institutions & Services
- Apparel & Footwear

BAR AND COURT ADMISSIONS

- District of Columbia
- U.S. Supreme Court
- U.S. Court of Appeals for the First Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. District Court for the District of Colorado
- U.S. District Court for the District of Columbia
- U.S. District Court for the Northern District of Illinois
- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the District of New Mexico

EDUCATION

- University of North Carolina School of Law, J.D., *cum laude*, 1982, Note and Comment Editor, *North Carolina Law Review*
- Ohio Wesleyan University, B.A., *summa cum laude*, 1978

Exhibit C



700 13th Street, NW
Suite 800
Washington, D.C. 20005-3960

+1.202.654.6200
+1.202.654.6211
PerkinsCoie.com

August 18, 2023

Adam R. Mandelsberg
AMandelsberg@perkinscoie.com

VIA ECF

Hon. Robert Kirsch
United States District Court for the
District of New Jersey
Clarkson S. Fisher Building &
U.S. Courthouse
402 East State St.
Trenton, NJ 08608

Re: Zangara v. National Board of Medical Examiners, No. 3:22-cv-01559-RK-JBD

Dear Judge Kirsch:

We are writing on behalf of defendant the National Board of Medical Examiners (NBME) in response to plaintiff Jason Zangara's August 11, 2023, letter requesting a hearing on his motion for preliminary injunction (Dkt. 56).

Before addressing Mr. Zangara's hearing request, NBME notes that this is not the first filing in which Mr. Zangara has falsely accused NBME, its counsel, and NBME psychometrician Carol Morrison, Ph.D., of submitting "fraudulent" documents to the Court. NBME responded to similar accusations made by Mr. Zangara in his last preliminary injunction motion by way of a proposed sur-reply. *See* Dkt. 27-1. To avoid repetitive and wasteful briefing, NBME will not respond at this time to Mr. Zangara's most recent barrage of baseless accusations in his August 11 letter and preliminary injunction reply brief. For the avoidance of doubt, however, NBME denies categorically Mr. Zangara's claims of wrongdoing.

Mr. Zangara's repeated accusations aimed at NBME, its employees, and its counsel are inappropriate and inconsistent with the Court's Guidelines for Litigation Conduct (the "Guidelines"). Although Mr. Zangara is not a lawyer, the same standards of civility should apply to all parties. As noted in the Preamble to the Guidelines, "[c]onduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently. Such conduct tends to delay and often to deny justice." *See also Dinnerstein v. Burlington Cty. College*, 2017 WL 5593776, at *6 (D.N.J. 2017) ("While the Court must afford a pro se litigant certain leeway, the pro se litigant must act with civility").

Hon. Robert Kirsch

August 18, 2023

Page 2

As for Mr. Zangara's request for a hearing on his latest preliminary injunction motion, NBME respectfully submits that Mr. Zangara has shown no basis for a hearing. "The applicable Federal Rule does not make a hearing a prerequisite for ruling on a preliminary injunction." *Bradley v. Pittsburg Bd. of Educ.*, 910 F.2d 1172, 1175 (3d Cir. 1990) (citing Fed. R. Civ. P. 65(a)). A hearing is not necessary, for example, "if the movant is proceeding on a legal theory which cannot be sustained" or "when the movant has not presented a colorable factual basis to support the claim on the merits or the contention of irreparable harm." *Id.* at 1176. Mr. Zangara's request should be denied on both grounds, as discussed further in NBME's opposition brief (Dkt. 54).

We greatly appreciate Your Honor's consideration of this matter.

Respectfully Submitted,

/s/ Adam R. Mandelsberg

Adam R. Mandelsberg

cc: Jason Zangara (via ECF)

Exhibit D



700 13th Street, NW
Suite 600
Washington, D.C. 20005-3960

T +1 202 654 6200
F +1 202 654 6211
PerkinsCoie.com

March 30, 2023

Robert Burgoyne
RBurgoyne@perkinscoie.com
D. +202.654.1744
F. +202.624.9548

Patricia S. Dodszuweit
Clerk of Court
U.S. Court of Appeals for the Third Circuit
2400 United State Courthouse
601 Market Street
Philadelphia, PA 19106-1790

Re: Jason Zangara v. National Board of Medical Examiners
Case Number: 23-1412 (3rd Cir.)
District Court Case Number: 3-22-cv-01559 (D.N.J.)

Dear Ms. Dodszuweit:

Our firm represents the National Board of Medical Examiners ("NBME") in connection with the referenced appeal. We are responding to your letter of March 10, 2023, regarding a possible jurisdictional defect. *See* 3rd Cir. Dkt. No. 5.

You requested the parties' views on this issue. NBME agrees that there is a jurisdictional defect and believes the appeal should be dismissed for lack of jurisdiction.

Mr. Zangara's Appeal Notice

Mr. Zangara is proceeding *pro se*. He did not file an actual Notice of Appeal. Instead, he sent a letter to the district court and this Court which he asked to have treated as his notice of appeal. According to that letter, dated March 3, 2023, Mr. Zangara is appealing:

1. The March 2, 2023 "Text Order" directing Plaintiff to "file a motion for leave to file an amended complaint" [(Dist. Ct. ECF No. 31)]
2. The District Courts Denial of Plaintiffs requests under Rule 65 for a preliminary injunction.

3rd Cir. Dkt. No. 1 (March 8, 2023); Dist. Ct. ECF No. 32-1 (March 6, 2023).

Mr. Zangara submitted an Informal Brief on the same date, stating as follows in response to the questions found in section one of the Court's Informal Brief form:

1. Jurisdiction: What order(s) of the district court or agency are you appealing?

The order directing me to file a motion to ammend [sic] the complaint and the District Court not ruling on two seperate [sic] applications for an injunction after 1 year

What is the date of the order(s)?

3/2/23 (See Exhibit A) There is no order for the denial of the two injunctions

When did you file your notice of appeal or petition for review?

Today

3rd Cir. Dkt. No. 4 (March 8, 2023); Dist. Ct. ECF No. 32-2 (March 6, 2023).

NBME's Position Regarding the Pending Appeal

For reasons that follow, Mr. Zangara's pending appeal should be dismissed for lack of jurisdiction.

1. A scheduling order directing a party to file a motion for leave to file an amended complaint by a certain date is a non-final procedural order that is not subject to interlocutory appeal. *See* 28 U.S.C. § 1291; *Wilderman v. Cooper & Scully, P.C.*, 428 F.3d 474 (3d Cir. 2005) (order staying a case in light of a related case pending in state court is a non-final, non-appealable order); *Weber v. McGrogan*, 939 F.3d 232, 236 (2019) ("Congress has given the federal circuit courts jurisdiction over 'appeals from all final decisions of the district courts[.]' 28 U.S.C. § 1291. A 'final decision' is 'one which ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.'") (citation omitted).

The "'small category'" of exceptions to the final-order rule "'includes only decisions that are conclusive, that resolve important questions separate from the merits, and that are effectively unreviewable on appeal from the final judgment in the underlying action.'" *Cunningham v. Hamilton County, Ohio*, 527 U.S. 198, 204 (1999) (citations omitted). A text order directing a plaintiff to file a motion for leave to amend his complaint does not fall into this small category of decisions.

Finally, in accordance with the text order from which he has appealed, Mr. Zangara has now filed a motion to amend his complaint. *See* Dist. Ct. ECF No. 38 (Notice of Motion to Amend), 38-2 (Brief in Support of Motion to Amend), and 38-3 (proposed amended Complaint, containing 86 Counts, 836 numbered paragraphs, and 184 pages) (all filed on March 23, 2023). Therefore, even if otherwise proper (and it was not), his appeal from the text order is moot.

2. The district court has not ruled upon either of the two motions for preliminary injunctive relief that Mr. Zangara refers to as having been “deni[ed]” by the district court (3rd Cir. Dkt. No. 4). *See* Dist. Ct. ECF No. 3, 19. There is thus no order or decision on those motions from which Mr. Zangara may appeal. *See* 28 U.S.C. § 1291; 28 U.S.C. § 1292(a)(1).

Conclusion

The Court should dismiss Mr. Zangara’s pending appeal for lack of jurisdiction.

Respectfully submitted,

Robert A. Burgoyne

Robert Burgoyne

Cc: Jason Zangara, by regular mail

Exhibit E



1155 Avenue of the Americas
22nd Floor
New York, NY 10036-2711

+1.212.262.6900
+1.212.977.1649
PerkinsCoie.com

August 8, 2022

Adam R. Mandelsberg
AMandelsberg@perkinscoie.com
D. +1.212.261.6867
F. +1.212.399.8067

VIA ECF

William T. Walsh, Clerk of Court
United States District Court
District of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street, Room 2020
Trenton, NJ 08608

Re: *Zangara v. National Board of Medical Examiners*, Case No. 3:22-cv-01559-GC-LHG

Dear Mr. Walsh:

We represent Defendant National Board of Medical Examiners in the above-captioned matter, and respectfully submit this letter application, pursuant to Local Civil Rule 6.1(b), to request an extension of time to answer or otherwise respond to the Complaint. We request a 14-day extension, through and including August 23, 2022, of the original August 9, 2022, deadline to respond to the Complaint.

The present request constitutes the first request for an adjournment or extension of time in the above-captioned case and will not affect any other scheduled dates.

Thank you for your consideration.

Respectfully submitted,

/s/ Adam R. Mandelsberg
Adam R. Mandelsberg

cc: Plaintiff Jason Zangara via First Class Mail (with copy via email)
All parties via ECF